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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,991	03/31/2005	Ernest R Fernandez	7728-76964-02	5330

24197 7590 12/05/2007  
KLARQUIST SPARKMAN, LLP  
121 SW SALMON STREET  
SUITE 1600  
PORTLAND, OR 97204

EXAMINER
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DANG, HUNG XUAN

ART UNIT	PAPER NUMBER
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2873

MAIL DATE	DELIVERY MODE
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12/05/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/529,991

Applicant(s)

FERNANDEZ ET AL.

Examiner

Hung X. Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The amendment filed on 9/13/07 has been entered.
2. The indicated allowability of claims 2 and 7 is withdrawn due to further consideration of figure 3 of reference Teng (6,848,786).

### **Claims Rejection Under 35 USC – 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-6, 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Teng** (6,848,786).

Teng discloses sports goggles having prescription lense comprises a frame 1 having a lens mounting means therein; an adapter ring 2 removably mounted in said lens mounting means, said adapter ring 2 comprising a lens 22 therein; wherein said mounting means has a higher wrap than said lens (see at least figures 1-3 and the related disclosure.)

Teng does not teach the lens is prescription lens as that claimed by Applicant.

Eyeglasses lenses have long been designed with the general objective of correcting the vision of the wearer. Therefore it would have been obvious to one skilled

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in the art to make the lens, of the Teng, prescription lens for the purpose of providing correcting vision of the wearer.

### **Claims Rejection Under 35 USC – 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Teng** (6,848,786) in view of **Mage** (5,898,468).

Teng discloses sports goggles having prescription lense comprises a frame 1 having a lens mounting means therein; an adapter ring 2 removably mounted in said lens mounting means, said adapter ring 2 comprising a lens 22 therein; wherein said mounting means has a higher wrap than said lens (see at least figures 1-3 and the related disclosure.) Teng does not teach the lens is prescription lens as that claimed by Applicant. Eyeglasses lenses have long been designed with the general objective of correcting the vision of the wearer. Therefore it would have been obvious to one skilled in the art to make the lens, of the Teng, prescription lens for the purpose of providing correcting vision of the wearer.

Teng does not teach the eye wear have one or more ventilation apertures.

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Mage, however, discloses the eyewear having a plurality of ventilation apertures for fogging resistance (see figures 1-4 and the related disclosure.)

Because Teng and Mage are both from the same field of endeavor, the purpose of preventing the fogging occur on the lenses as disclosed by Mage would have been recognized as an art pertinent art of Teng.

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the eyeglasses frame, such as the one disclosed by Teng, with one or more ventilation apertures, such as disclosed by Mage for the purpose preventing the fogging occur on the lenses.

5. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

11/07



HUNG DANG

PRIMARY EXAMINER

TC 2800